

BILL ANALYSIS

C.S.H.B. 3226
By: Phillips
Insurance
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties have expressed a need for flexibility in administering federal funds for the purpose of establishing a temporary health insurance risk pool for the state if such a pool becomes necessary in light of continued efforts to reform federal health care law. C.S.H.B. 3226 seeks to address this issue by authorizing the commissioner of insurance to establish and administer a temporary health insurance risk pool with federal funds, to the extent those funds become available.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of insurance in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 3226 amends the Insurance Code to authorize the commissioner of insurance, to the extent that federal funds become available under federal law, regulation, or executive action after March 1, 2017, to apply for and use such funds to establish and administer a temporary health insurance risk pool for the purposes of the bill's provisions. The bill prohibits the pool from being used to expand Medicaid and the Medicaid managed care program. The bill authorizes the commissioner, subject to any requirements for obtaining federal funds held in the pool, to use pool funds to provide alternative individual health insurance coverage to eligible individuals that does not diminish the availability of traditional commercial health care coverage, to provide funding to individual health benefit plan issuers that cover individuals with certain health or cost characteristics in exchange for lower enrollee premium rates, or to provide a reinsurance program for health benefit plan issuers in the individual market in exchange for lower enrollee premium rates. The bill authorizes the commissioner to enter into a contract or agreement that the commissioner determines is appropriate to carry out the bill's provisions and to contract for stop-loss insurance for risks incurred under the bill's provisions.

C.S.H.B. 3226 authorizes the commissioner to use funds appropriated to the Texas Department of Insurance (TDI) to apply for federal funding and grants and to administer the bill's provisions and to use federal funds to administer the bill's provisions, as appropriate. The bill prohibits the commissioner from using any state funds to fund the pool unless they are specifically appropriated for that purpose. The bill authorizes the commissioner to use money appropriated to TDI from the healthy Texas small employer premium stabilization fund for the exclusive purposes of the bill's provisions other than paying salaries and salary related benefits and requires the commissioner to transfer money from the healthy Texas small employer premium

stabilization fund to the TDI operating account in an amount equal to the amount of money appropriated to TDI from that fund for the direct and indirect costs of the exclusive purposes of the bill's provisions.

C.S.H.B. 3226 authorizes the commissioner to use funds appropriated to TDI for the exclusive purposes of the bill's provisions to develop and implement public education, outreach, and facilitated enrollment strategies under the bill and authorizes the commissioner to contract with marketing organizations to perform or provide assistance with those strategies. The bill authorizes the commissioner to apply to the United States secretary of health and human services under federal law for a waiver of applicable provisions of the Patient Protection and Affordable Care Act and any applicable regulations or guidance with respect to health insurance coverage in Texas for a plan year beginning on or after January 1, 2017, and to take any action the commissioner considers appropriate to make such an application. The bill authorizes the commissioner to implement a state plan that meets the requirements of a waiver granted in response to such an application if the plan is consistent with state and federal law and is approved by the United States secretary of health and human services.

C.S.H.B. 3226 authorizes the commissioner to exercise any authority that may be exercised under state law by a reinsurer or a health benefit plan issuer authorized to write health benefit plans in Texas. The bill authorizes the commissioner to adopt rules necessary to implement the bill's provisions. The bill exempts a program created under the bill's provisions from any state tax, regulatory fee, or surcharge, including a premium or maintenance tax or fee. The bill requires TDI, beginning June 1, 2018, and not later than June 1 of each year, to submit a report to the governor, the lieutenant governor, and the speaker of the house of representatives, requires the report to summarize the activities conducted under the bill's provisions in the calendar year preceding the year in which the report is submitted, and requires the report to include information relating to net written and earned premiums, plan enrollment, administration expenses, and paid and incurred losses. The bill's provisions expire August 31, 2019. The bill requires the commissioner to transfer any money remaining outside the state treasury in the Texas Treasury Safekeeping Trust Company account to the healthy Texas small employer premium stabilization fund on the bill's effective date.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3226 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Subtitle G, Insurance Code, is amended by adding Chapter 1510 to read as follows:

CHAPTER 1510. TEXAS TEMPORARY HEALTH INSURANCE POOL

No equivalent provision.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subtitle G, Title 8, Insurance Code, is amended by adding Chapter 1510 to read as follows:

CHAPTER 1510. TEMPORARY HEALTH INSURANCE RISK POOL

Sec. 1510.001. DEFINITION. In this chapter, "pool" means a temporary health insurance risk pool that is established and administered by the commissioner under this chapter.

Sec. 1510.101 ESTABLISHMENT OF TEMPORARY HEALTH INSURANCE RISK POOL..

Sec. 1510.102. PURPOSES OF TEMPORARY POOL. (a) The purpose of the pool is to provide a temporary mechanism for maximizing available federal funding to assist Texas residents in obtaining access to quality health care at minimum cost to the public.

(b) The pool may not be used to expand the Medicaid program under Chapter 32 of the Human Resources Code.

Sec. 1510.103. PROVIDING COVERAGE.

Sec. 1510.104. CONTRACTS.

Sec. 1510.105. FUNDING. (a) The commissioner may use funds appropriated to the department to apply for federal funding and grants and to administer this Chapter.

(b) The commissioner may use federal funds to administer this Chapter, as appropriate.

(c) Except as provided in this section, the commissioner may not use any state funds to fund the Pool unless they are specifically appropriated for that purpose.

(d) Notwithstanding Section 6(d)(2.) Chapter 615 (S.B. 1367), Acts of the 83rd Legislature, Regular Session, 2013, on or after the effective date of this bill, the commissioner of insurance shall transfer any funds remaining in the Texas Treasury Safekeeping Trust Company account created under the provisions of Section 6(c) of Chapter 615 (S.B. 1367), Acts of the 83rd Legislature, Regular Session, 2013, to the

Sec. 1510.002. Substantially the same as the introduced version.

Sec. 1510.003. PURPOSE OF POOL. (a) The exclusive purpose of the pool is to provide a temporary mechanism for maximizing available federal funding to assist residents of this state in obtaining access to quality health care at minimum cost to the public.

(b) The pool may not be used to expand the Medicaid program, including the program administered under Chapter 32, Human Resources Code, and the program administered under Chapter 533, Government Code.

Sec. 1510.004. Substantially the same as the introduced version.

Sec. 1510.005. Substantially the same as the introduced version.

Sec. 1510.006. FUNDING. (a) The commissioner may use funds appropriated to the department to:

(1) apply for federal funding and grants; and

(2) administer this chapter.

(e) The commissioner may use federal funds to administer this chapter, as appropriate.

(d) Except as provided by Subsections (a) and (b), the commissioner may not use any state funds to fund the pool unless the funds are specifically appropriated for that purpose.

(See SECTION 2, below.)

fund established under Subchapter F, Chapter 1508, Insurance Code.

(e) Notwithstanding Section 6(e)(2)(B), Chapter 615 (S.B. 1367), Acts of the 83rd Legislature, Regular Session, 2013, the commissioner of insurance may use funds appropriated to the department from the fund established under Subchapter F, Chapter 1508, Insurance Code, for the purposes of this chapter but excluding salaries and salary related benefits.

(f) Notwithstanding Section 6(e)(2)(B), Chapter 615 (S.B. 1367), Acts of the 83rd Legislature, Regular Session, 2013, on or after the effective date of this bill, the commissioner of insurance shall transfer funds from the fund established under Subchapter F, Chapter 1508, Insurance Code, to the General Revenue-Dedicated Texas Department of Insurance Operating Fund 36 to cover the appropriations for direct and indirect costs for the purposes of this chapter.

Sec. 1510.106. PUBLIC EDUCATION AND OUTREACH. (a) The commissioner may use any funds appropriated to the department for the purposes of this chapter to develop and implement public education, outreach, and facilitated enrollment strategies under this chapter.

(b) The commissioner may contract with marketing organizations to perform or provide assistance with education, outreach, and enrollment strategies described by Subsection (a).

Sec. 1510.107. WAIVER.

Sec. 1510.108. ADDITIONAL AUTHORITY.

Sec. 1510.198. RULES.

Sec. 1510.110. EXEMPTION FROM STATE TAXES AND FEES. The programs

(b) Notwithstanding Section 6(e)(2)(B), Chapter 615 (S.B. 1367), Acts of the 83rd Legislature, Regular Session, 2013, the commissioner may use money appropriated to the department from the healthy Texas small employer premium stabilization fund for the exclusive purposes of this chapter, other than for paying salaries and salary-related benefits.

(c) Notwithstanding Section 6(e)(2)(B), Chapter 615 (S.B. 1367), Acts of the 83rd Legislature, Regular Session, 2013, the commissioner shall transfer money from the healthy Texas small employer premium stabilization fund to the Texas Department of Insurance operating account in an amount equal to the amount of money appropriated to the department from that fund, as described by Subsection (b), for the direct and indirect costs of the exclusive purposes of this chapter.

Sec. 1510.007. PUBLIC EDUCATION AND OUTREACH. (a) The commissioner may use funds appropriated to the department for the exclusive purposes of this chapter to develop and implement public education, outreach, and facilitated enrollment strategies under this chapter.

(b) The commissioner may contract with marketing organizations to perform or provide assistance with the strategies described by Subsection (a).

Sec. 1510.008. Substantially the same as the introduced version.

Sec. 1510.009. Substantially the same as the introduced version.

Sec. 1510.010. Substantially the same as the introduced version.

Sec. 1510.011. EXEMPTION FROM STATE TAXES AND FEES.

created under this Chapter are not subject to any state tax, regulatory fee, or surcharge, including a premium or maintenance tax or fee.

Sec. 1510.111. ANNUAL REPORT OF POOL'S ACTIVITIES.

(See SECTION 2, below.)

(See Section 1510.105(d), SECTION 1, above.)

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the votes necessary for immediate effect, this Act takes effect September 1, 2017.

This Chapter expires August 31, 2019, unless extended by the Legislature.

Notwithstanding any other law, a program created under this chapter is not subject to any state tax, regulatory fee, or surcharge, including a premium or maintenance tax or fee.

Sec. 1510.012. Substantially the same as the introduced version.

Sec. 1510.013. EXPIRATION OF CHAPTER. This chapter expires August 31, 2019.

SECTION 2. Notwithstanding Section 6(d)(2), Chapter 615 (S.B. 1367), Acts of the 83rd Legislature, Regular Session, 2013, on the effective date of this Act, the commissioner of insurance shall transfer any money remaining outside the state treasury in the Texas Treasury Safekeeping Trust Company account established under Section 6(c), Chapter 615 (S.B. 1367), Acts of the 83rd Legislature, Regular Session, 2013, to the healthy Texas small employer premium stabilization fund.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.

(See Section 510.013, SECTION 1, above.)